

ORIGINAL

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

W. R. GRACE & CO., et al.,¹

Debtors.

Chapter 11

Case No. 01-01139 (JJF)
Jointly AdministeredObjection Deadline: May 21, 2001 at 4:00 p.m.
Hearing Date: TBD if necessary

**NOTICE OF APPLICATION OF THE DEBTORS FOR THE ENTRY OF AN ORDER
AUTHORIZING THE RETENTION AND EMPLOYMENT OF PITNEY, HARDIN,
KIPP & SZUCH LLP AS SPECIAL COUNSEL TO THE DEBTORS**

TO: Parties required to receive notice pursuant to Del. Bankr. LR 2002-1.

On May 4, 2001, the above-captioned debtors and debtors in possession
(collectively, the "Debtors") filed the *Application of the Debtors for the Entry of an Order
Authorizing the Retention and Employment of Pitney, Hardin, Kipp & Szuch LLP as Special
Counsel to the Debtors* (the "Application") with the United States Bankruptcy Court for the
District of Delaware, 824 Market Street, Wilmington, Delaware 19801 (the "Bankruptcy

¹ The Debtors consist of the following 62 entities: W. R. Grace & Co. (f/k/a Grace Specialty Chemicals, Inc.), W. R. Grace & Co.-Conn., A-1 Bit & Tool Co., Inc., Alewife Boston Ltd., Alewife Land Corporation, Amicon, Inc., CB Biomedical, Inc. (f/k/a Circe Biomedical, Inc.), CCHP, Inc., Coalgrace, Inc., Coalgrace II, Inc., Creative Food 'N Fun Company, Darex Puerto Rico, Inc., Del Taco Restaurants, Inc., Dewey and Almy, LLC (f/k/a Dewey and Almy Company), Ecarg, Inc., Five Alewife Boston Ltd., G C Limited Partners I, Inc. (f/k/a Grace Cocoa Limited Partners I, Inc.), G C Management, Inc. (f/k/a Grace Cocoa Management, Inc.), GEC Management Corporation, GN Holdings, Inc., GPC Thomasville Corp., Gloucester New Communities Company, Inc., Grace A-B Inc., Grace A-B II Inc., Grace Chemical Company of Cuba, Grace Culinary Systems, Inc., Grace Drilling Company, Grace Energy Corporation, Grace Environmental, Inc., Grace Europe, Inc., Grace H-G Inc., Grace H-G II Inc., Grace Hotel Services Corporation, Grace International Holdings, Inc. (f/k/a Dearborn International Holdings, Inc.), Grace Offshore Company, Grace PAR Corporation, Grace Petroleum Libya Incorporated, Grace Tarpon Investors, Inc., Grace Ventures Corp., Grace Washington, Inc., W. R. Grace Capital Corporation, W. R. Grace Land Corporation, Gracoal, Inc., Gracoal II, Inc., Guanica-Caribe Land Development Corporation, Hanover Square Corporation, Homco International, Inc., Kootenai Development Company, L B Realty, Inc., Litigation Management, Inc. (f/k/a GHSC Holding, Inc., Grace JVH, Inc., Asbestos Management, Inc.), Monolith Enterprises, Incorporated, Monroe Street, Inc., MRA Holdings Corp. (f/k/a Nestor-BNA Holdings Corporation), MRA Intermedco, Inc. (f/k/a Nestor-BNA, Inc.), MRA Staffing Systems, Inc. (f/k/a British Nursing Association, Inc.), Remedium Group, Inc. (f/k/a Environmental Liability Management, Inc., E&C Liquidating Corp., Emerson & Cuming, Inc.), Southern Oil, Resin & Fiberglass, Inc., Water Street Corporation, Axial Basin Ranch Company, CC Partners (f/k/a Cross Country Staffing), Hayden-Gulch West Coal Company, H-G Coal Company.

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Court”), seeking the retention of Pitney, Hardin, Kipp & Szuch LLP as their special counsel. A true and correct copy of the Application is attached hereto as Exhibit A.

Objections and other responses to the relief requested in the Application, if any, must be in writing and be filed with the Bankruptcy Court no later than 4:00 p.m. Eastern Time on May 21, 2001.

Objections or other responses to the Application, if any, must also be served so that they are received not later than May 21, 2001 at 4:00 p.m. Eastern Time, by (i) co-counsel for the Debtors, James H.M. Sprayregen, Esquire, Kirkland & Ellis, 200 East Randolph Drive, Chicago, Illinois 60601 (fax number 312-861-2200), and Laura Davis Jones, Esquire, Pachulski, Stang, Ziehl, Young & Jones P.C., 919 North Market Street, Suite 1600, P.O. Box 8705, Wilmington, DE 19899-8705 (Courier 19801) (fax number 302-652-4400); (ii) the Office of the United States Trustee, Attn: Frank J. Perch, Esquire, 844 N. King Street, Wilmington, Delaware 19801 (fax number 302-573-6497); (iii) counsel to the Official Committee of Property Damage Claimants, Scott L. Baena, Esquire, Bilzin, Sumberg, Dunn, Baena, Price & Axelrod, First Union Financial Center, 200 South Biscayne Boulevard, Suite 2500, Miami, Florida 33131 (fax number 305-374-7593), and Michael B. Joseph, Esquire, Ferry & Joseph, P.A., 824 Market Street, Suite 904, P.O. Box 1351, Wilmington, Delaware 19899 (fax number 302-575-1714); (iv) counsel to the Official Committee of Personal Injury Claimants, Elihu Inselbuch, Esquire, Caplin & Drysdale, 399 Park Avenue, 36th Floor, New York, New York 10022 (fax number 212-644-6755), and Matthew G. Zaleski, III, Esquire, Ashby & Geddes, 222 Delaware Avenue, P.O. Box 1150, Wilmington, Delaware 19899 (fax number 302-654-2067); and (v) counsel to

the Official Committee of Unsecured Creditors, Lewis Kruger, Esquire, Stroock & Stroock & Lavan, 180 Maiden Lane, New York, New York 10038-4982 (fax number 212-806-6006), and Michael R. Lastowski, Esquire, Duane, Morris & Heckscher, LLP, 1100 N. Market Street, Suite 1200, Wilmington, Delaware 19801-1246 (fax number 302-657-4901).

IF NO OBJECTIONS ARE TIMELY FILED AND SERVED IN ACCORDANCE WITH THIS NOTICE, THE BANKRUPTCY COURT MAY GRANT THE RELIEF DEMANDED BY THE APPLICATION WITHOUT FURTHER NOTICE OR HEARING.


IN THE EVENT THAT ANY OBJECTION OR RESPONSE IS FILED AND
SERVED IN ACCORDANCE WITH THIS NOTICE, A HEARING ON THE APPLICATION
WILL BE HELD BEFORE THE HONORABLE JOSEPH J. FARNAN, JR., UNITED STATES
DISTRICT JUDGE, AT THE COURT'S EARLIEST CONVENIENCE.

Dated: May 4, 2001

KIRKLAND & ELLIS
James H.M. Sprayregen
James W. Kapp III
Samuel A. Schwartz
Roger J. Higgins
200 East Randolph Drive
Chicago, Illinois 60601
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and

PACHULSKI, STANG, ZIEHL, YOUNG & JONES P.C.



Laura Davis Jones (Bar No. 2436)
Hamid R. Rafatjoo (CA Bar No. 181564)
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Co-Counsel for the Debtors and
Debtors in Possession

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	Chapter 11
)	
W. R. GRACE & CO., <u>et al.</u> , ¹)	Case No. 01-01139 (JJF)
)	(Jointly Administered)
Debtors.)	

**APPLICATION OF THE DEBTORS FOR THE
ENTRY OF AN ORDER AUTHORIZING THE RETENTION AND
EMPLOYMENT OF PITNEY, HARDIN, KIPP & SZUCH LLP
AS SPECIAL COUNSEL TO THE DEBTORS**

The above-captioned debtors and debtors-in-possession (collectively, the “Debtors”) hereby submit this application (the “Application”) for the entry of an order pursuant to sections 327(e) and 328(a) of title 11 of the United States Code (as amended, the “Bankruptcy Code”) and Federal Rules of Bankruptcy Procedure 2014 and 2016, authorizing and approving the retention of Pitney, Hardin, Kipp & Szuch LLP (“PHKS”) as special counsel for the Debtors,

¹The Debtors consist of the following 62 entities: W. R. Grace & Co. (f/k/a Grace Specialty Chemicals, Inc.), W. R. Grace & Co.-Conn., A-1 Bit & Tool Co., Inc., Alewife Boston Ltd., Alewife Land Corporation, Amicon, Inc., CB Biomedical, Inc. (f/k/a Circe Biomedical, Inc.), CCHP, Inc., Coalgrace, Inc., Coalgrace II, Inc., Creative Food ‘N Fun Company, Darex Puerto Rico, Inc., Del Taco Restaurants, Inc., Dewey and Almy, LLC (f/k/a Dewey and Almy Company), Ecarg, Inc., Five Alewife Boston Ltd., G C Limited Partners I, Inc. (f/k/a Grace Cocoa Limited Partners I, Inc.), G C Management, Inc. (f/k/a Grace Cocoa Management, Inc.), GEC Management Corporation, GN Holdings, Inc., GPC Thomasville Corp., Gloucester New Communities Company, Inc., Grace A-B Inc., Grace A-B II Inc., Grace Chemical Company of Cuba, Grace Culinary Systems, Inc., Grace Drilling Company, Grace Energy Corporation, Grace Environmental, Inc., Grace Europe, Inc., Grace H-G Inc., Grace H-G II Inc., Grace Hotel Services Corporation, Grace International Holdings, Inc. (f/k/a Dearborn International Holdings, Inc.), Grace Offshore Company, Grace PAR Corporation, Grace Petroleum Libya Incorporated, Grace Tarpon Investors, Inc., Grace Ventures Corp., Grace Washington, Inc., W. R. Grace Capital Corporation, W. R. Grace Land Corporation, Gracoal, Inc., Gracoal II, Inc., Guanica-Caribe Land Development Corporation, Hanover Square Corporation, Homco International, Inc., Kootenai Development Company, L B Realty, Inc., Litigation Management, Inc. (f/k/a GHSC Holding, Inc., Grace JVH, Inc., Asbestos Management, Inc.), Monolith Enterprises, Incorporated, Monroe Street, Inc., MRA Holdings Corp. (f/k/a Nestor-BNA Holdings Corporation), MRA Intermedco, Inc. (f/k/a Nestor-BNA, Inc.), MRA Staffing Systems, Inc. (f/k/a British Nursing Association, Inc.), Remedium Group, Inc. (f/k/a Environmental Liability Management, Inc., E&C Liquidating Corp., Emerson & Cuming, Inc.), Southern Oil, Resin & Fiberglass, Inc., Water Street Corporation, Axial Basin Ranch Company, CC Partners (f/k/a Cross Country Staffing), Hayden-Gulch West Coal Company, H-G Coal Company.

nunc pro tunc to the petition date of the above-captioned proceedings (the "Petition Date"), and in support thereof respectfully represent as follows:

Jurisdiction

1. This Court has jurisdiction to entertain this application pursuant to 28 U.S.C. §§ 157 and 1334.

Relief Requested

2. The Debtors respectfully request the entry of an order pursuant to sections 327(e) and 328(a) of the Bankruptcy Code authorizing them to employ and retain PHKS as special counsel with respect to three (3) matters enumerated below in which PHKS, the Debtors' longtime legal counsel on numerous matters, has represented the Debtors pre-petition.²

Basis for Relief Requested

3. The Debtors have selected PHKS as special counsel to continue representing them in connection with certain matters, which will be described more fully below, in which PHKS has represented the Debtors over an extended period of time and with which PHKS is intimately familiar. Because of PHKS's long-standing involvement with and knowledge of the subject matters, and the costs that would be involved in educating other counsel as to these matters, the Debtors believe it would be in the best interest of the Debtors, their bankruptcy estates, and all of the Debtors' creditors for PHKS to be retained as special counsel for the specified special purposes set forth in this Application.

² In addition to representing the Debtors as special counsel relative to the three (3) matters delineated in this Application, PHKS will continue to represent the Debtors in various, smaller matters as an ordinary course professional in accordance with prior applications of the Debtors and orders of the Court.

4. Further, PHKS has an outstanding reputation and extensive experience and expertise in the various areas of practice as to which PHKS's continued representation is sought. As such, the Debtors submit that PHKS is well qualified and uniquely able to provide the specialized legal advice sought by the Debtors on a going-forward basis, and PHKS's retention as special counsel is in the best interest of the Debtors and their estates.

Scope of Proposed Retention

5. The Debtors currently seek to retain PHKS, subject to the oversight and orders of this Court, to represent the Debtors with respect to the following matters:

- a. In re Intercat, Inc. This matter involves a Chapter 11 filing by Intercat, Inc. ("Intercat") in the United States Bankruptcy Court for the Southern District of Georgia, Savannah Division [Case No. 99-42796]. W. R. Grace & Co.-Conn. ("Grace") holds a judgment against Intercat in the amount of approximately \$23,000,000. Grace is Intercat's largest unsecured creditor and is one of three members of the creditors' committee in the case. Grace, by and through PHKS, has been actively involved in Intercat's bankruptcy case since the petition date, which was October 6, 1999. For example, Grace actively participated in a lengthy hearing early in the case to appoint a Chapter 11 trustee, which was granted.³ Currently, PHKS, on Grace's behalf, is reviewing Intercat's informal proposal for a plan of reorganization and the trustee's anticipated plan of orderly liquidation, including an asset sale. In addition, PHKS has been appointed as special counsel to the trustee to prosecute an avoidance action, which matter is pending.⁴
- b. Maryland Cas. v. W. R. Grace & Co., et al., 88 Civ. 4337 (JSM) (S.D.N.Y.). In June 1988, Maryland Casualty Company, one of Grace's primary Comprehensive General Liability ("CGL") carriers, filed a complaint in the Federal District Court for the Southern District of New York seeking declaratory judgment against Grace that it did not owe Grace coverage for environmental claims arising from five sites. Grace answered that complaint,

³ The Bankruptcy Court left Intercat in "partial possession" of its business affairs. Accordingly, Grace has been involved with both the trustee and the debtor in "partial possession".

⁴ Intercat's estate is responsible for the payment of PHKS's legal fees and out of pocket costs in connection with the adversary proceeding; however, to the extent any fees or costs are disallowed by the court, Grace has agreed to pay such fees and costs.

added claims in connection with fourteen additional sites, and cross claimed against all of its CGL primary and first level excess carriers that issued policies to Grace from 1962 to June 30, 1984. Each carrier answered Grace's cross claim and added more sites/claims to the litigation, totaling approximately 220.

In June 1992, the Court held that New York law will apply to all contract interpretation issues. Thereafter, Grace and the carriers filed motions and briefs seeking black letter law rulings on, among other things: whether New York law permitted coverage for "gradual pollution" claims, the carriers' duty to defend; whether certain notices by governmental agencies constitute "claims" triggering the carriers' duty to defend; and the application of the "sudden and accidental" pollution exclusion clause in certain policies. On April 28, 1994, the Court granted the insurers' motion finding that, pursuant to Section 46 of the New York Insurance Law (repealed in 1981), Grace's "gradual pollution" claims are not covered under the policies sold by Continental Casualty Company ("CNA") (Grace's primary CGL insurer from 1973 through 1984); that under the CNA policies at issue, CNA is not obligated to provide a defense by application of deductibles and retrospective premium arrangements; and, on a case-by-case basis, that certain governmental notices do not rise to the level of "claims" triggering coverage.

Following settlements with carriers, except CNA, Grace entered into a Stipulation Of Voluntary Dismissal With Prejudice with CNA to dismiss the only active claims in the litigation, the approximately eight claims arising from "sudden and accidental" discharges. Grace sought this voluntary dismissal to permit an appeal of the Court's prior rulings that resolved claims against Grace arising from "gradual pollution," and the Court's rulings regarding choice of law and interpretation of the 1990 settlement agreement between Grace and CNA. PHKS, on Grace's behalf, is filing such an appeal.

- c. Gloucester New Communities Company, Inc. v. Del Monte Corporation, et al., United States District Court for the District of New Jersey, Civil Action No. 98 cv2293 (JAP). In 1998, Gloucester New Communities Company, Inc., a wholly-owned subsidiary of Grace ("GNCC") and one of the Debtors in these chapter 11 cases, sued the Del Monte Corporation, two Southern New Jersey municipalities, and a corporation hired by them to operate a former sanitary landfill during the late 1950's through 1975 that was located on real property, now owned by GNCC, in Woolwich Township, New Jersey. GNCC seeks to recover environmental investigation and response costs of approximately

\$2.5 million incurred in performing the proper closure of the landfill. Each of the defendants has asserted counterclaims against GNCC for contribution to the response costs. Defendants filed several motions for summary judgment and dismissal of the complaint in the Spring of 1999. GNCC opposed and the Court denied Defendants' summary motions in December 1999. Thereafter, the case proceeded to substantial fact discovery and depositions in 2000. Significant efforts were expended during discovery to establish the defendants' liability for the landfill. Fact discovery concluded in late January 2001. Settlement discussions were held between the parties in early 2001 at a Court Conference but no settlement was reached at that time. In March 2001, GNCC filed a motion for leave to amend its complaint to include common law damages to real property based, in part, on recent NJDEP requirements for a buffer zone to address methane gas migration from the landfill. A hearing and argument was scheduled on April 24, 2001, for this motion. The case is currently in expert discovery. GNCC has retained several experts in the case. GNCC served its expert reports on defendants in mid-February 2001. Defendants are scheduled to serve their expert reports on GNCC by April 30, 2001. Expert depositions are scheduled for May 2001. The case is scheduled for another settlement conference in early June 2001. No trial date has been set by the Court.

This matter, since its inception, has been handled by PHKS on behalf of GNCC on a contingency basis of 30% of the amount recovered from the defendants, not to exceed \$240,000.00, exclusive of engagement costs. PHKS proposes that this pre-petition contingency fee arrangement be approved by this Court on a post-petition basis.

6. The Debtors are herewith seeking authorization to employ and retain the law firms of Kirkland & Ellis and Pachulski, Stang, Ziehl, Young & Jones to serve as bankruptcy and reorganization counsel to the Debtors. PHKS will not serve as general bankruptcy and reorganization counsel to the Debtors, and while certain aspects of the representations will necessarily involve both PHKS and the Debtors' bankruptcy and reorganization counsel, the Debtors believe that the services PHKS will provide will be complementary rather than duplicative of the services to be performed by such bankruptcy and reorganization counsel. The

Debtors are very mindful of the need to avoid duplication of services, and appropriate procedures will be implemented to ensure that there is minimal duplication of effort as a result of PHKS's role as special counsel.

No Adverse Interest

7. Because the Debtors owe PHKS \$47,556.93 for professional services arising from PHKS's representation of the Debtors in the subject matters and other, unrelated matters, PHKS does not appear to be a "disinterested person" as that term is defined in and construed under 11 U.S.C. § 101(14). It is, however, respectfully submitted that PHKS's retention is still allowable within the Court's discretion under 11 U.S.C. § 327(e) as such representation would be in the best interest of the estate and, as set forth in the Affidavit of Anthony J. Marchetta, Esq. (the "Marchetta Affidavit") filed in conjunction with this Application, PHKS does not represent or hold any interest adverse to the Debtors or to the estates with respect to the specific matters in connection with which retention is sought.

Compensation

8. In accordance with section 330(a) of the Bankruptcy Code, the Debtors propose to compensate PHKS on an hourly basis at its customary hourly rates for services rendered, plus reimbursement of actual, necessary expenses incurred by PHKS, except as to the GNCC matter, described in paragraph 5.c. above, in which PHKS will be paid on a contingency basis per the pre-petition agreement of the parties. The primary attorneys of PHKS who will be handling the above matters and their current standard hourly rates are:

<u>Attorney</u>	<u>Hourly Rate</u>
(a) Anthony J. Marchetta	\$395 per hour
(b) Scott A. Zuber	\$265 per hour
(c) Michael E. Waller	\$265 per hour
(d) Kathy Helmer	\$250 per hour
(e) Brian E. Moffit	\$230 per hour
(f) Alashia L. Chan	\$220 per hour

9. As set forth in the Marchetta Affidavit, the hourly rates described above are subject to periodic adjustments to reflect economic and other conditions. Other attorneys or paralegals may from time to time serve the Debtors in the matters for which PHKS's retention is sought. PHKS's rates are set at a level designed to compensate PHKS fairly for the work of its attorneys and paralegals and to cover fixed and routine overhead expenses. It is PHKS's policy to charge its clients in all areas of practice for all other expenses incurred in connection with the client's case. The expenses charged to clients include, among other things, telecopier toll and other charges, mail and express mail charges, special or hand delivery charges, document processing, photocopying charges, travel expenses, expenses for "working meals," computerized research, messengers, couriers, postage, witness fees and other fees related to trials and hearings, transcription costs, and non-ordinary overhead expenses such as secretarial and other overtime. PHKS will charge the Debtors for these expenses in a manner and at rates consistent with charges generally made to PHKS's other clients. PHKS believes that it is fairer to charge these expenses to the client incurring them than to increase the hourly rates and spread the expenses among all clients.

10. PHKS will submit interim and final applications for compensation in accordance with the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure, the Local Rules of this Court and such other and further Orders as the Court may direct.

Conclusion

11. For the reasons set forth above and in the Marchetta Affidavit, the Debtors believe that the attorneys at PHKS are well qualified to act on the Debtors' behalf for the specified purposes noted in this Application. The Debtors further believe that the retention of PHKS is necessary and in the best interest of the Debtors and their estates.

Notice

12. Notice of this Motion has been given to (i) the Office of the United States Trustee, (ii) counsel to the debtor-in-possession lenders and (iii) counsel to the official committees appointed by the United States Trustee. In light of the nature of the relief requested, the Debtors submit that no further notice should be required.

No Prior Request

13. No prior application for the relief requested herein has been made to this or any other Court.

WHEREFORE, the Debtors respectfully request that the Court enter an order, substantially in the form attached hereto, authorizing the retention and employment of PHKS as special counsel for the Debtors, nunc pro tunc to the Petition Date, and grant them such other and further relief as is just and proper.

Dated: May 4, 2001

W. R. GRACE & CO., W. R. GRACE & CO.-CONN., A-1 BIT & TOOL CO., INC., ALEWIFE BOSTON LTD., ALEWIFE LAND CORPORATION, AMICON, INC., CB BIOMEDICAL, INC. (F/K/A CIRCE BIOMEDICAL, INC.), CCHP, INC., COALGRACE, INC., COALGRACE II, INC., CREATIVE FOOD 'N FUN COMPANY, DAREX PUERTO RICO, INC., DEL TACO RESTAURANTS, INC., DEWEY AND ALMY, LLC (F/K/A DEWEY AND ALMY COMPANY), ECARG, INC., FIVE ALEWIFE BOSTON LTD., G C LIMITED PARTNERS I, INC. (F/K/A GRACE COCOA LIMITED PARTNERS I, INC.), G C MANAGEMENT, INC. (F/K/A GRACE COCOA MANAGEMENT, INC.), GEC MANAGEMENT CORPORATION, GN HOLDINGS, INC., GPC THOMASVILLE CORP., GLOUCESTER NEW COMMUNITIES COMPANY, INC., GRACE A-B INC., GRACE A-B II INC., GRACE CHEMICAL COMPANY OF CUBA, GRACE CULINARY SYSTEMS, INC., GRACE DRILLING COMPANY, GRACE ENERGY CORPORATION, GRACE ENVIRONMENTAL, INC., GRACE EUROPE, INC., GRACE H-G INC., GRACE H-G II INC., GRACE HOTEL SERVICES CORPORATION, GRACE INTERNATIONAL HOLDINGS, INC. (F/K/A DEARBORN INTERNATIONAL HOLDINGS, INC.), GRACE OFFSHORE COMPANY, GRACE PAR CORPORATION, GRACE PETROLEUM LIBYA INCORPORATED, GRACE TARPON INVESTORS, INC., GRACE VENTURES CORP., GRACE WASHINGTON, INC., W. R. GRACE CAPITAL CORPORATION, W. R. GRACE LAND CORPORATION, GRACOAL, INC., GRACOAL II, INC., GUANICA-CARIBE LAND DEVELOPMENT CORPORATION, HANOVER SQUARE CORPORATION, HOMCO INTERNATIONAL, INC., KOOTENAI DEVELOPMENT COMPANY, L B REALTY, INC., LITIGATION MANAGEMENT, INC. (F/K/A GHSC HOLDING, INC.), GRACE JVH, INC., ASBESTOS MANAGEMENT, INC.), MONOLITH ENTERPRISES, INCORPORATED, MONROE STREET, INC., MRA HOLDINGS CORP. (F/K/A NESTOR-

BNA HOLDINGS CORPORATION), MRA INTERMEDCO, INC. (F/K/A NESTOR-BNA, INC.), MRA STAFFING SYSTEMS, INC. (F/K/A BRITISH NURSING ASSOCIATION, INC.), REMEDIUM GROUP, INC. (F/K/A ENVIRONMENTAL LIABILITY MANAGEMENT, INC., E&C LIQUIDATING CORP., EMERSON & CUMING, INC.), SOUTHERN OIL, RESIN & FIBERGLASS, INC., WATER STREET CORPORATION, AXIAL BASIN RANCH COMPANY, CC PARTNERS (F/K/A CROSS COUNTRY STAFFING), HAYDEN-GULCH WEST COAL COMPANY, H-G COAL COMPANY.

By: 

David B. Siegel

Senior Vice President and General Counsel

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:) Chapter 11
W. R. GRACE & CO., et al.,) Case No. 01-01139 (JF)
Debtors.) (Jointly Administered)

**AFFIDAVIT OF ANTHONY J. MARCHETTA
IN SUPPORT OF THE APPLICATION OF THE DEBTORS
TO EMPLOY PITNEY, HARDIN, KIPP & SZUCH LLP
AS SPECIAL COUNSEL TO DEBTORS**

STATE OF NEW JERSEY)
COUNTY OF MORRIS) ss

I, ANTHONY J. MARCHETTA, being duly sworn, state as follows:

1. I am an attorney at law and a member of the bars of the State of New Jersey, the United States District Courts for the District of New Jersey, the Northern, Eastern, and Southern Districts of New York, the United States Court of Appeals for the Third Circuit, and the United States Supreme Court. I am a member of the law firm of Pitney, Hardin, Kipp &

¹The Debtors consist of the following 62 entities: W. R. Grace & Co. (f/k/a Grace Specialty Chemicals, Inc.), W. R. Grace & Co.-Conn., A-1 Bit & Tool Co., Inc., Alewife Boston Ltd., Alewife Land Corporation, Amicon, Inc., CB Biomedical, Inc. (f/k/a Circe Biomedical, Inc.), CCHP, Inc., Coalgrace, Inc., Coalgrace II, Inc., Creative Food 'N Fun Company, Darèx Puerto Rico, Inc., Del Taco Restaurants, Inc., Dewey and Almy, LLC (f/k/a Dewey and Almy Company), Ecarg, Inc., Five Alewife Boston Ltd., G C Limited Partners I, Inc. (f/k/a Grace Cocoa Limited Partners I, Inc.), G C Management, Inc. (f/k/a Grace Cocoa Management, Inc.), GEC Management Corporation, GN Holdings, Inc., GPC Thomasville Corp., Gloucester New Communities Company, Inc., Grace A-B Inc., Grace A-B II Inc., Grace Chemical Company of Cuba, Grace Culinary Systems, Inc., Grace Drilling Company, Grace Energy Corporation, Grace Environmental, Inc., Grace Europe, Inc., Grace H-G Inc., Grace H-G II Inc., Grace Hotel Services Corporation, Grace International Holdings, Inc. (f/k/a Dearborn International Holdings, Inc.), Grace Offshore Company, Grace PAR Corporation, Grace Petroleum Libya Incorporated, Grace Tarpon Investors, Inc., Grace Ventures Corp., Grace Washington, Inc., W. R. Grace Capital Corporation, W. R. Grace Land Corporation, Gracoal, Inc., Gracoal II, Inc., Guanica-Caribe Land Development Corporation, Hanover Square Corporation, Homco International, Inc., Kootenai Development Company, L B Realty, Inc., Litigation Management, Inc. (f/k/a GHSC Holding, Inc., Grace JVH, Inc., Asbestos Management, Inc.), Monolith Enterprises, Incorporated, Monroe Street, Inc., MRA Holdings Corp. (f/k/a Nestor-BNA Holdings Corporation), MRA Intermedco, Inc. (f/k/a Nestor-BNA, Inc.), MRA Staffing Systems, Inc. (f/k/a British Nursing Association, Inc.), Remedium Group, Inc. (f/k/a Environmental Liability Management, Inc., E&C Liquidating Corp., Emerson & Cuming, Inc.), Southern Oil, Resin & Fiberglass, Inc., Water Street Corporation, Axial Basin Ranch Company, CC Partners (f/k/a Cross Country Staffing), Hayden-Gulch West Coal Company, H-G Coal Company.

Szuch LLP ("PHKS"), which maintains an office for the practice of law at 200 Campus Drive, Florham Park, New Jersey. I make this Affidavit in support of the application of W. R. Grace & Co., et al. (collectively, the "Debtors") for an order authorizing the employment of PHKS as special counsel for the Debtors, nunc pro tunc to the petition date herein, pursuant to sections 327(e) and 328(a) of the Bankruptcy Code (the "Application"). This Affidavit constitutes the statement of PHKS pursuant to Federal Rules of Bankruptcy Procedure 2014(a) and 2016.

2. I am not related and, to the best of my knowledge after inquiry of PHKS's members, counsel and associates, no other attorney of PHKS is related, to any judge of the United States Bankruptcy Court for the District of Delaware or to the United States Trustee for this District.

3. I do not hold or represent and, to the best of my knowledge and information, no other attorney of PHKS holds or represents, any interest adverse to the Debtors or their estates with respect to any of the matters for which PHKS's retention is sought. Insofar as PHKS has been able to ascertain, neither I, nor PHKS, nor any member, counsel or associate thereof, has any connection with the Debtors in these cases, their creditors, or any other party in interest, or their respective attorneys or accountants, except as hereinafter set forth, relative to the matters in which the Debtors seek to retain PHKS.

4. In matters unrelated to this case, PHKS has in the past represented, may currently represent, and may in the future represent certain of the Debtors and certain of the Debtors' and their affiliates' creditors, including unsecured creditors, secured creditors and

customers, including W. R. Grace & Co.-Conn., Gloucester New Communities, Inc., The Bank of New York, Chase Manhattan Bank, and First Union National Bank.

5. Over the course of PHKS's prepetition representation of the Debtors, PHKS periodically has received regular compensation from the Debtors for services rendered and expenses incurred through March 2001. While certain of the services performed by PHKS over the past year have included giving strategic advice with respect to the restructuring options available to the Debtors, including a possible chapter 11 filing, none of the fees paid to PHKS represent payments for legal services in connection with the preparation and filing of these chapter 11 cases. Those services have been performed by the Debtors' bankruptcy and reorganization counsel, Kirkland & Ellis and Pachulski, Stang, Ziehl, Young & Jones. As of April 2, 2001, there was, and remains, due and owing by the Debtors to PHKS on account of prepetition services, the sum of \$47,556.93.

6. PHKS intends to apply to the court for compensation for professional services rendered in connection with these cases, subject to approval of the Court and in compliance with the applicable provisions of the Bankruptcy Code and Rules and any Orders of the Court. PHKS will charge hourly rates to the Debtors that are consistent with customary hourly rates charged by PHKS, which currently are \$75 to \$150 for paralegals, \$155 to \$250 for associates, and \$250 to \$450 for partners, subject to periodic adjustments, plus reimbursement of actual and necessary expenses and other charges that the firm incurs.² The principal members of PHKS who will be handling the representation and their current standard hourly rates are:

² Except as to the GNCC v. Del Monte Corp. matter, discussed in paragraph 5.c. of the Debtors' Application to retain PHKS, which is being handled on a contingency fee basis.

<u>Attorney</u>	<u>Hourly Rate</u>
(a) Anthony J. Marchetta	\$395 per hour
(b) Scott A. Zuber	\$265 per hour
(c) Michael E. Waller	\$265 per hour
(d) Kathy Helmer	\$250 per hour
(e) Brian E. Moffit	\$230 per hour
(f) Alashia L. Chan	\$220 per hour

7. As described in the Application, PHKS's limited role in these cases will be that of special counsel with respect to three (3) matters in which PHKS, the Debtors' longtime legal counsel on numerous matters, has represented the Debtors pre-petition.³

8. The hourly rates set forth above are subject to periodic adjustments to reflect economic and other conditions. Other attorneys and paralegals may from time to time serve the Debtors as well in the matters for which PHKS's retention is sought. PHKS's rates are set at a level designed to compensate PHKS fairly for the work of its attorneys and paralegals and to cover fixed and routine overhead expenses. It is PHKS's policy to charge its clients in all areas of practice for such additional expenses as telecopier toll and other charges, mail and express mail charges, special or hand delivery charges, document processing, photocopying charges, travel expenses, expenses for "working meals," computerized research, messengers, couriers, postage, witness fees and other fees related to trials and hearings, transcription costs, and non-ordinary overhead expenses such as secretarial and other overtime. PHKS will charge the Debtors for these expenses in a manner and at rates consistent with charges generally made to

³ In addition to representing the Debtors as special counsel relative to the three (3) matters delineated in this Application, PHKS will continue to represent the Debtors in various, smaller matters as an ordinary course professional in accordance with prior applications of the Debtors and orders of the Court.

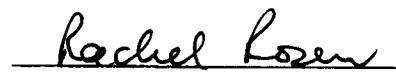
9. PHKS's other clients. PHKS believes that it is fairer to charge these expenses to the client incurring them than to increase its hourly rates and spread the expenses among all clients.

10. No promises have been received by PHKS as to compensation in connection with this case other than in accordance with the provisions of the Bankruptcy Code. PHKS has no agreement with any other entity to share (a) any compensation it has received or may receive for services rendered in connection with this case with another party or person, or (b) any compensation another party or person has received or may receive for services rendered in connection with this case.

11. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.


Anthony J. Marchetta

Sworn to before me this
2nd day of May, 2001


Notary Public

My commission
expire April 9, 2006

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	Chapter 11
)	
W. R. GRACE & CO., <u>et al.</u> , ¹)	Case No. 01-01139 (JJF)
)	(Jointly Administered)
Debtors.)	

**ORDER AUTHORIZING THE RETENTION AND
EMPLOYMENT OF PITNEY, HARDIN, KIPP & SZUCH LLP
AS SPECIAL COUNSEL TO THE DEBTORS**

Upon the application (the "Application") of the above-captioned debtors and debtors-in-possession (collectively, the "Debtors") seeking entry of an order under sections 327(e) and 328(a) of title 11 of the United States Code (as amended, the "Bankruptcy Code") authorizing the Debtors to employ and retain Pitney, Hardin, Kipp & Szuch LLP ("PHKS") as special counsel for the Debtors with respect to the specified matters set forth in the Application; and upon the Affidavit of Anthony J. Marchetta submitted in support of the Application; and it appearing that the relief requested is in the best interest of the Debtors' estates and their creditors and other parties in interest; and it appearing that this is a core matter under 28 U.S.C. § 157; and

¹The Debtors consist of the following 62 entities: W. R. Grace & Co. (f/k/a Grace Specialty Chemicals, Inc.), W. R. Grace & Co.-Conn., A-1 Bit & Tool Co., Inc., Alewife Boston Ltd., Alewife Land Corporation, Amicon, Inc., CB Biomedical, Inc. (f/k/a Circe Biomedical, Inc.), CCHP, Inc., Coalgrace, Inc., Coalgrace II, Inc., Creative Food 'N Fun Company, Darex Puerto Rico, Inc., Del Taco Restaurants, Inc., Dewey and Almy, LLC (f/k/a Dewey & Almy Company), Ecarg, Inc., Five Alewife Boston Ltd., G C Limited Partners I, Inc. (f/k/a Grace Cocoa Limited Partners I, Inc.), G C Management, Inc. (f/k/a Grace Cocoa Management, Inc.), GEC Management Corporation, GN Holdings, Inc., GPC Thomasville Corp., Gloucester New Communities Company, Inc., Grace A-B Inc., Grace A-B II Inc., Grace Chemical Company of Cuba, Grace Culinary Systems, Inc., Grace Drilling Company, Grace Energy Corporation, Grace Environmental, Inc., Grace Europe, Inc., Grace H-G Inc., Grace H-G II Inc., Grace Hotel Services Corporation, Grace International Holdings, Inc. (f/k/a Dearborn International Holdings, Inc.), Grace Offshore Company, Grace PAR Corporation, Grace Petroleum Libya Incorporated, Grace Tarpon Investors, Inc., Grace Ventures Corp., Grace Washington, Inc., W. R. Grace Capital Corporation, W. R. Grace Land Corporation, Gracoal, Inc., Gracoal II, Inc., Guanica-Caribe Land Development Corporation, Hanover Square Corporation, Homco International, Inc., Kootenai Development Company, L B Realty, Inc., Litigation Management, Inc. (f/k/a GHSC Holding, Inc.), Grace JVH, Inc., Asbestos Management, Inc.), Monolith Enterprises, Incorporated, Monroe Street, Inc., MRA Holdings Corp. (f/k/a Nestor-BNA Holdings Corporation), MRA Intermedco, Inc. (f/k/a Nestor-BNA, Inc.), MRA Staffing Systems, Inc. (f/k/a British Nursing Association, Inc.), Remedium Group, Inc. (f/k/a Environmental Liability Management, Inc., E&C Liquidating Corp., Emerson & Cuming, Inc.), Southern Oil, Resin & Fiberglass, Inc., Water Street Corporation, Axial Basin Ranch Company, CC Partners (f/k/a Cross Country Staffing), Hayden-Gulch West Coal Company, H-G Coal Company.

it appearing that PHKS does not represent any interest adverse to the Debtors or their estates with respect to the matters on which PHKS is to be employed, and meets all requirements for retention set forth in the Bankruptcy Code; and it appearing that the terms and conditions of PHKS's employment as further described in the Application are reasonable; and adequate notice having been given of the Application; and good and sufficient cause existing to grant the Application;

NOW, THEREFORE, IT IS HEREBY:

ORDERED that the Application is GRANTED; and it is further

ORDERED that, pursuant to sections 327(e) and 328(a) of the Bankruptcy Code, the retention and employment of PHKS as special counsel to the Debtors for the purposes set forth in the Application is hereby approved, nunc pro tunc to the petition date of the above-captioned proceedings; and it is further

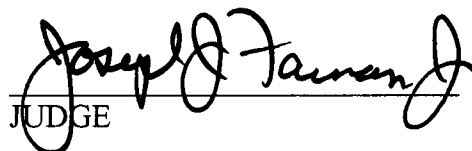
ORDERED that PHKS shall be compensated under sections 330 and 331 of the Bankruptcy Code and any further or other Orders of this Court concerning compensation of professionals in these cases, and in accordance with the terms set forth in the Application and the Affidavit of Anthony J. Marchetta in support of the Application, and shall be reimbursed for all allowed necessary, actual and reasonable expenses; and it is further

ORDERED that the allowed fees and expenses of PHKS shall be an administrative expense of the Debtors' estates; and it is further

ORDERED that this Order shall become effective immediately upon its entry; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

Dated: May 30, 2001


JUDGE

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:) Chapter 11
W. R. GRACE & CO., et al.,¹) Case No. 01-01139 (RJN)
Debtors.) Jointly Administered

AFFIDAVIT OF SERVICE


STATE OF DELAWARE)
COUNTY OF NEW CASTLE)SS
)

Patricia E. Cuniff, being duly sworn according to law, deposes and says that she is employed by the law firm of Pachulski, Stang, Ziehl, Young & Jones P.C., co-counsel for the Debtors, in the above-captioned action, and that on the 4th day of May, 2001 she caused a copy of the following document(s) to be served upon the attached service list(s) in the manner indicated:

¹ The Debtors consist of the following 62 entities: W. R. Grace & Co. (f/k/a Grace Specialty Chemicals, Inc.), W. R. Grace & Co.-Conn., A-1 Bit & Tool Co., Inc., Alewife Boston Ltd., Alewife Land Corporation, Amicon, Inc., CB Biomedical, Inc. (f/k/a Circe Biomedical, Inc.), CCHP, Inc., Coalgrace, Inc., Coalgrace II, Inc., Creative Food 'N Fun Company, Darex Puerto Rico, Inc., Del Taco Restaurants, Inc., Dewey and Almy, LLC (f/k/a Dewey and Almy Company), Ecarg, Inc., Five Alewife Boston Ltd., G C Limited Partners I, Inc. (f/k/a Grace Cocoa Limited Partners I, Inc.), G C Management, Inc. (f/k/a Grace Cocoa Management, Inc.), GEC Management Corporation, GN Holdings, Inc., GPC Thomasville Corp., Gloucester New Communities Company, Inc., Grace A-B Inc., Grace A-B II Inc., Grace Chemical Company of Cuba, Grace Culinary Systems, Inc., Grace Drilling Company, Grace Energy Corporation, Grace Environmental, Inc., Grace Europe, Inc., Grace H-G Inc., Grace H-G II Inc., Grace Hotel Services Corporation, Grace International Holdings, Inc. (f/k/a Dearborn International Holdings, Inc.), Grace Offshore Company, Grace PAR Corporation, Grace Petroleum Libya Incorporated, Grace Tarpon Investors, Inc., Grace Ventures Corp., Grace Washington, Inc., W. R. Grace Capital Corporation, W. R. Grace Land Corporation, Gracoal, Inc., Gracoal II, Inc., Guanica-Caribe Land Development Corporation, Hanover Square Corporation, Homco International, Inc., Kootenai Development Company, L B Realty, Inc., Litigation Management, Inc. (f/k/a GHSC Holding, Inc., Grace JVH, Inc., Asbestos Management, Inc.), Monolith Enterprises, Incorporated, Monroe Street, Inc., MRA Holdings Corp. (f/k/a Nestor-BNA Holdings Corporation), MRA Intermedco, Inc. (f/k/a Nestor-BNA, Inc.), MRA Staffing Systems, Inc. (f/k/a British Nursing Association, Inc.), Remedium Group, Inc. (f/k/a Environmental Liability Management, Inc., E&C Liquidating Corp., Emerson & Cuming, Inc.), Southern Oil, Resin & Fiberglass, Inc., Water Street Corporation, Axial Basin Ranch Company, CC Partners (f/k/a Cross Country Staffing), Hayden-Gulch West Coal Company, H-G Coal Company.

1. **Notice of Application by the Debtors for Entry of an Order Authorizing the Retention and Employment of Pitney, Hardin, Kipp & Szuch LLP as Special Counsel to Debtors;**
2. **Application of the Debtors for the Entry of an Order Authorizing the Retention and Employment of Pitney, Hardin, Kipp & Szuch LLP as Special Counsel to Debtors;**
3. **Affidavit of Anthony J. Marchetta in Support of the Application of the Debtors to Employ Pitney, Hardin, Kipp & Szuch LLP as Counsel to Debtors; and**
4. **Order Authorizing the Retention and Employment of Pitney, Hardin, Kipp & Szuch LLP as Special Counsel to Debtors.**

Dated: May 4, 2001


Patricia E. Cuniff

Sworn to and subscribed before
me this 4th day of May, 2001


Notary Public

My Commission Expires: 7/1/01

W. R. Grace 2002 Service List
Case No. 01-1139 (RJN)
Doc. No. 21948
May 4, 2001
11 – Hand Delivery
07 – Federal Express
59 – First Class Mail

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